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Saliwanchik, Lloyd & Saliwanchik
P.O. Box 142950
Gainesville, Florida 32614-2950

In re Application of :
LOWE et al. :
U.S. Application No.: 10/509,782 : DECISION ON PETITION
PCT No.: PCT/GB03/01499 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 04 April 2003 :
Priority Date: 05 April 2002 :
Attorney Docket No.: GJE-6941 :
For: METHOD OF DEFECTING AN :
ANALYTE IN A FLUID :

This decision is in response to applicants' facsimile communication dated 07 February 2006, which is being treated as a renewed petition under 37 CFR 1.47(a) to accept the application without the signature of joint-inventor, Anthony Peter James.

BACKGROUND

On 04 April 2003, applicants filed international application PCT/GB03/01499 which claimed a priority date of 05 April 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 October 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 October 2004.

On 29 September 2004, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment; and an unexecuted declaration.

On 22 March 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 25 July 2005, applicants filed the present petition under 37 CFR 1.47(a). In a decision dated 31 January 2006, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 07 February 2006, applicants filed the present renewed petition.

DISCUSSION

A. Petition under 37 CFR 1.181

Applicant states in their present petition that an executed declaration was received by the USPTO on 21 October 2005. A review of the application file reveals that the declaration is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "Return Postcard" states, in part:

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by the title of invention; applicant's name; and docket number. The evidence submitted by applicants, consisting of a postcard receipt with a PCT/PTO mailroom date stamp of 21 October 2005 which itemizes all the papers filed on said date. The postcard receipt bearing the applicant's name, title of invention, and attorney docket number is sufficient to indicate that the above papers were received on 21 October 2005.

B. Renewed Petition under 37 CFR 1.47(a)

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 21 October 2005 was executed by the named inventor, the previous non-signing inventor, Anthony Peter James. For the reasons above, the petition under 37 CFR 1.47 is dismissed as moot.

CONCLUSION

The petition under 37 CFR 1.181 is GRANTED and applicants' petition under 37 CFR 1.47(a) is DISMISSED as moot.

The application has an international filing date of 04 April 2003 under 35 U.S.C. 363 and a date of **21 October 2005** under 35 U.S.C. 371(c)(1),(c)(2) and (c)(4).

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing in accordance with this decision.



Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459